

1 AN ACT concerning public employee benefits.

2 **Be it enacted by the People of the State of Illinois,**  
3 **represented in the General Assembly:**

4 Section 5. The Illinois Pension Code is amended by changing  
5 Sections 15-106, 15-107, 15-110, 15-111, 15-168, and 15-168.2  
6 and by adding Section 15-111.5 as follows:

7 (40 ILCS 5/15-106) (from Ch. 108 1/2, par. 15-106)

8 (Text of Section WITHOUT the changes made by P.A. 98-599,  
9 which has been held unconstitutional)

10 Sec. 15-106. Employer. "Employer": The University of  
11 Illinois, Southern Illinois University, Chicago State  
12 University, Eastern Illinois University, Governors State  
13 University, Illinois State University, Northeastern Illinois  
14 University, Northern Illinois University, Western Illinois  
15 University, the State Board of Higher Education, the Illinois  
16 Mathematics and Science Academy, the University Civil Service  
17 Merit Board, the Board of Trustees of the State Universities  
18 Retirement System, the Illinois Community College Board,  
19 community college boards, any association of community college  
20 boards organized under Section 3-55 of the Public Community  
21 College Act, the Board of Examiners established under the  
22 Illinois Public Accounting Act, and, only during the period for  
23 which employer contributions required under Section 15-155 are

1 paid, the following organizations: the alumni associations,  
2 the foundations and the athletic associations which are  
3 affiliated with the universities and colleges included in this  
4 Section as employers. An individual that begins employment on  
5 or after the effective date of this amendatory Act of the 99th  
6 General Assembly with any association of community college  
7 boards organized under Section 3-55 of the Public Community  
8 College Act, the Association of Illinois Middle-Grade Schools,  
9 the Illinois Association of School Administrators, the  
10 Illinois Association for Supervision and Curriculum  
11 Development, the Illinois Principals Association, the Illinois  
12 Association of School Business Officials, the Illinois Special  
13 Olympics, or an entity not defined as an employer in this  
14 Section shall not be deemed an employee for the purposes of  
15 this Article with respect to that employment and shall not be  
16 eligible to participate in the System with respect to that  
17 employment; provided, however, that those individuals who are  
18 both employed by such an entity and are participating in the  
19 System with respect to that employment on the effective date of  
20 this amendatory Act of the 99th General Assembly shall be  
21 allowed to continue as participants in the System for the  
22 duration of that employment.

23 A department as defined in Section 14-103.04 is an employer  
24 for any person appointed by the Governor under the Civil  
25 Administrative Code of Illinois who is a participating employee  
26 as defined in Section 15-109. The Department of Central

1 Management Services is an employer with respect to persons  
2 employed by the State Board of Higher Education in positions  
3 with the Illinois Century Network as of June 30, 2004 who  
4 remain continuously employed after that date by the Department  
5 of Central Management Services in positions with the Illinois  
6 Century Network, the Bureau of Communication and Computer  
7 Services, or, if applicable, any successor bureau.

8 The cities of Champaign and Urbana shall be considered  
9 employers, but only during the period for which contributions  
10 are required to be made under subsection (b-1) of Section  
11 15-155 and only with respect to individuals described in  
12 subsection (h) of Section 15-107.

13 (Source: P.A. 95-369, eff. 8-23-07; 95-728, eff. 7-1-08 - See  
14 Sec. 999.)

15 (40 ILCS 5/15-107) (from Ch. 108 1/2, par. 15-107)

16 (Text of Section WITHOUT the changes made by P.A. 98-599,  
17 which has been held unconstitutional)

18 Sec. 15-107. Employee.

19 (a) "Employee" means any member of the educational,  
20 administrative, secretarial, clerical, mechanical, labor or  
21 other staff of an employer whose employment is permanent and  
22 continuous or who is employed in a position in which services  
23 are expected to be rendered on a continuous basis for at least  
24 4 months or one academic term, whichever is less, who (A)  
25 receives payment for personal services on a warrant issued

1 pursuant to a payroll voucher certified by an employer and  
2 drawn by the State Comptroller upon the State Treasurer or by  
3 an employer upon trust, federal or other funds, or (B) is on a  
4 leave of absence without pay. Employment which is irregular,  
5 intermittent or temporary shall not be considered continuous  
6 for purposes of this paragraph.

7 However, a person is not an "employee" if he or she:

8 (1) is a student enrolled in and regularly attending  
9 classes in a college or university which is an employer,  
10 and is employed on a temporary basis at less than full  
11 time;

12 (2) is currently receiving a retirement annuity or a  
13 disability retirement annuity under Section 15-153.2 from  
14 this System;

15 (3) is on a military leave of absence;

16 (4) is eligible to participate in the Federal Civil  
17 Service Retirement System and is currently making  
18 contributions to that system based upon earnings paid by an  
19 employer;

20 (5) is on leave of absence without pay for more than 60  
21 days immediately following termination of disability  
22 benefits under this Article;

23 (6) is hired after June 30, 1979 as a public service  
24 employment program participant under the Federal  
25 Comprehensive Employment and Training Act and receives  
26 earnings in whole or in part from funds provided under that

1 Act; or

2 (7) is employed on or after July 1, 1991 to perform  
3 services that are excluded by subdivision (a)(7)(f) or  
4 (a)(19) of Section 210 of the federal Social Security Act  
5 from the definition of employment given in that Section (42  
6 U.S.C. 410).

7 (b) Any employer may, by filing a written notice with the  
8 board, exclude from the definition of "employee" all persons  
9 employed pursuant to a federally funded contract entered into  
10 after July 1, 1982 with a federal military department in a  
11 program providing training in military courses to federal  
12 military personnel on a military site owned by the United  
13 States Government, if this exclusion is not prohibited by the  
14 federally funded contract or federal laws or rules governing  
15 the administration of the contract.

16 (c) Any person appointed by the Governor under the Civil  
17 Administrative Code of the State is an employee, if he or she  
18 is a participant in this system on the effective date of the  
19 appointment.

20 (d) A participant on lay-off status under civil service  
21 rules is considered an employee for not more than 120 days from  
22 the date of the lay-off.

23 (e) A participant is considered an employee during (1) the  
24 first 60 days of disability leave, (2) the period, not to  
25 exceed one year, in which his or her eligibility for disability  
26 benefits is being considered by the board or reviewed by the

1 courts, and (3) the period he or she receives disability  
2 benefits under the provisions of Section 15-152, workers'  
3 compensation or occupational disease benefits, or disability  
4 income under an insurance contract financed wholly or partially  
5 by the employer.

6 (f) Absences without pay, other than formal leaves of  
7 absence, of less than 30 calendar days, are not considered as  
8 an interruption of a person's status as an employee. If such  
9 absences during any period of 12 months exceed 30 work days,  
10 the employee status of the person is considered as interrupted  
11 as of the 31st work day.

12 (g) A staff member whose employment contract requires  
13 services during an academic term is to be considered an  
14 employee during the summer and other vacation periods, unless  
15 he or she declines an employment contract for the succeeding  
16 academic term or his or her employment status is otherwise  
17 terminated, and he or she receives no earnings during these  
18 periods.

19 (h) An individual who was a participating employee employed  
20 in the fire department of the University of Illinois's  
21 Champaign-Urbana campus immediately prior to the elimination  
22 of that fire department and who immediately after the  
23 elimination of that fire department became employed by the fire  
24 department of the City of Urbana or the City of Champaign shall  
25 continue to be considered as an employee for purposes of this  
26 Article for so long as the individual remains employed as a

1 firefighter by the City of Urbana or the City of Champaign. The  
2 individual shall cease to be considered an employee under this  
3 subsection (h) upon the first termination of the individual's  
4 employment as a firefighter by the City of Urbana or the City  
5 of Champaign.

6 (i) An individual who is employed on a full-time basis as  
7 an officer or employee of a statewide teacher organization that  
8 serves System participants or an officer of a national teacher  
9 organization that serves System participants may participate  
10 in the System and shall be deemed an employee, provided that  
11 (1) the individual has previously earned creditable service  
12 under this Article, (2) the individual files with the System an  
13 irrevocable election to become a participant before the  
14 effective date of this amendatory Act of the 97th General  
15 Assembly, (3) the individual does not receive credit for that  
16 employment under any other Article of this Code, and (4) the  
17 individual first became a full-time employee of the teacher  
18 organization and becomes a participant before the effective  
19 date of this amendatory Act of the 97th General Assembly. An  
20 employee under this subsection (i) is responsible for paying to  
21 the System both (A) employee contributions based on the actual  
22 compensation received for service with the teacher  
23 organization and (B) employer contributions equal to the normal  
24 costs (as defined in Section 15-155) resulting from that  
25 service; all or any part of these contributions may be paid on  
26 the employee's behalf or picked up for tax purposes (if

1 authorized under federal law) by the teacher organization.

2 A person who is an employee as defined in this subsection  
3 (i) may establish service credit for similar employment prior  
4 to becoming an employee under this subsection by paying to the  
5 System for that employment the contributions specified in this  
6 subsection, plus interest at the effective rate from the date  
7 of service to the date of payment. However, credit shall not be  
8 granted under this subsection for any such prior employment for  
9 which the applicant received credit under any other provision  
10 of this Code, or during which the applicant was on a leave of  
11 absence under Section 15-113.2.

12 (j) A person employed by the State Board of Higher  
13 Education in a position with the Illinois Century Network as of  
14 June 30, 2004 shall be considered to be an employee for so long  
15 as he or she remains continuously employed after that date by  
16 the Department of Central Management Services in a position  
17 with the Illinois Century Network, the Bureau of Communication  
18 and Computer Services, or, if applicable, any successor bureau  
19 and meets the requirements of subsection (a).

20 (k) In the case of doubt as to whether any person is an  
21 employee within the meaning of this Section or any rule adopted  
22 by the Board, the decision of the Board shall be final.

23 (Source: P.A. 97-651, eff. 1-5-12.)

24 (40 ILCS 5/15-110) (from Ch. 108 1/2, par. 15-110)

25 Sec. 15-110. Basic compensation. "Basic compensation":

1 Subject to Section 15-111.5, the ~~The~~ gross basic rate of salary  
2 or wages payable by an employer, including:

3 (1) the value of maintenance, board, living quarters,  
4 personal laundry, or other allowances furnished in lieu of  
5 salary which are considered gross income under the federal  
6 ~~Federal~~ Internal Revenue Code of 1986, as amended;~~7~~

7 (2) the employee contributions required under Section  
8 15-157;~~7~~ and

9 (3) the amount paid by any employer to a custodial  
10 account for investment in regulated investment company  
11 stocks for the benefit of the employee pursuant to the  
12 University Employees Custodial Accounts Act; "An Act in  
13 ~~relation to payments to custodial accounts for the benefit~~  
14 ~~of employees of public institutions of higher education",~~  
15 ~~approved September 9, 1983, and~~

16 (4) the amount of the premium payable by any employer  
17 to an insurance company or companies on an annuity  
18 contract, pursuant to the employee's election to accept a  
19 reduction in earnings or forego an increase in earnings  
20 under Section 30c of the State Finance Act "An Act in  
21 ~~relation to State Finance," approved June 10, 1919, as~~  
22 ~~amended,~~ or a tax-sheltered annuity plan approved by any  
23 employer; and

24 (5) the amount of any elective deferral to a deferred  
25 compensation plan established under Article 24 of this Code  
26 pursuant to Section 457(b) of the federal Internal Revenue

1           Code of 1986, as amended.

2           Basic compensation does not include (1) salary or wages for  
3 overtime or other extra service; (2) prospective salary or  
4 wages under a summer teaching contract not yet entered upon;  
5 and (3) overseas differential allowances, quarters allowances,  
6 post allowances, educational allowances and transportation  
7 allowances paid by an employer under a contract with the  
8 federal government or its agencies for services rendered in  
9 other countries. If an employee elects to receive in lieu of  
10 cash salary or wages, fringe benefits which are not taxable  
11 under the federal ~~Federal~~ Internal Revenue Code of 1986, as  
12 amended, the amount of the cash salary or wages which is waived  
13 shall be included in determining basic compensation.

14           (Source: P.A. 84-1308.)

15           (40 ILCS 5/15-111) (from Ch. 108 1/2, par. 15-111)

16           (Text of Section WITHOUT the changes made by P.A. 98-599,  
17 which has been held unconstitutional)

18           Sec. 15-111. Earnings.

19           (a) "Earnings": Subject to Section 15-111.5, an ~~An~~ amount  
20 paid for personal services equal to the sum of the basic  
21 compensation plus extra compensation for summer teaching,  
22 overtime or other extra service. For periods for which an  
23 employee receives service credit under subsection (c) of  
24 Section 15-113.1 or Section 15-113.2, earnings are equal to the  
25 basic compensation on which contributions are paid by the

1 employee during such periods. Compensation for employment  
2 which is irregular, intermittent and temporary shall not be  
3 considered earnings, unless the participant is also receiving  
4 earnings from the employer as an employee under Section 15-107.

5 With respect to transition pay paid by the University of  
6 Illinois to a person who was a participating employee employed  
7 in the fire department of the University of Illinois's  
8 Champaign-Urbana campus immediately prior to the elimination  
9 of that fire department:

10 (1) "Earnings" includes transition pay paid to the  
11 employee on or after the effective date of this amendatory  
12 Act of the 91st General Assembly.

13 (2) "Earnings" includes transition pay paid to the  
14 employee before the effective date of this amendatory Act  
15 of the 91st General Assembly only if (i) employee  
16 contributions under Section 15-157 have been withheld from  
17 that transition pay or (ii) the employee pays to the System  
18 before January 1, 2001 an amount representing employee  
19 contributions under Section 15-157 on that transition pay.  
20 Employee contributions under item (ii) may be paid in a  
21 lump sum, by withholding from additional transition pay  
22 accruing before January 1, 2001, or in any other manner  
23 approved by the System. Upon payment of the employee  
24 contributions on transition pay, the corresponding  
25 employer contributions become an obligation of the State.

26 (b) For a Tier 2 member, the annual earnings shall not

1 exceed \$106,800; however, that amount shall annually  
2 thereafter be increased by the lesser of (i) 3% of that amount,  
3 including all previous adjustments, or (ii) one half the annual  
4 unadjusted percentage increase (but not less than zero) in the  
5 consumer price index-u for the 12 months ending with the  
6 September preceding each November 1, including all previous  
7 adjustments.

8 For the purposes of this Section, "consumer price index u"  
9 means the index published by the Bureau of Labor Statistics of  
10 the United States Department of Labor that measures the average  
11 change in prices of goods and services purchased by all urban  
12 consumers, United States city average, all items, 1982-84 =  
13 100. The new amount resulting from each annual adjustment shall  
14 be determined by the Public Pension Division of the Department  
15 of Insurance and made available to the boards of the retirement  
16 systems and pension funds by November 1 of each year.

17 (c) With each submission of payroll information in the  
18 manner prescribed by the System, the employer shall certify  
19 that the payroll information is correct and complies with all  
20 applicable State and federal laws.

21 (Source: P.A. 98-92, eff. 7-16-13.)

22 (40 ILCS 5/15-111.5 new)

23 Sec. 15-111.5. Basic compensation and earnings  
24 restrictions. For an employee who first becomes a participant  
25 on or after the effective date of this amendatory Act of the

1 99th General Assembly, basic compensation under Section 15-110  
2 and earnings under Section 15-111 shall not include bonuses,  
3 housing allowances, vehicle allowances, or club memberships or  
4 dues.

5 (40 ILCS 5/15-168) (from Ch. 108 1/2, par. 15-168)

6 Sec. 15-168. To require information.

7 (a) To require such information as shall be necessary for  
8 the proper operation of the system from any participant or  
9 beneficiary or annuitant ~~benefit recipient~~ or from any current  
10 or former employer of a participant or annuitant. Such  
11 information may include, but is not limited to, employment  
12 contracts ~~current or former participant~~.

13 (b) When the System submits a request for information under  
14 subsection (a) of this Section, the employer shall respond  
15 within 90 calendar days of the System's request. Beginning on  
16 the 91st calendar day after the System's request, the System  
17 may assess a penalty of \$500 per calendar day until receipt of  
18 the information by the System, with a maximum penalty of  
19 \$50,000. All payments must be received within one calendar year  
20 after receipt of the information by the System or one calendar  
21 year of reaching the maximum penalty of \$50,000, whichever  
22 occurs earlier. If the employer fails to make complete payment  
23 within the applicable timeframe, then the System may, after  
24 giving notice to the employer, certify the delinquent amount to  
25 the State Comptroller, and the Comptroller shall thereupon

1 deduct the certified delinquent amount from State funds payable  
2 to the employer and pay them instead to the System.

3 (c) If a participant, beneficiary, or annuitant fails to  
4 provide any information that is necessary for the calculation,  
5 payment, or finalization of any benefit under this Article  
6 within 90 calendar days of the date of the System's request  
7 under subsection (a) of this Section, then the System may  
8 immediately cease processing the benefit and may not pay any  
9 additional benefit payment to the participant, beneficiary, or  
10 annuitant until the requested information is provided.

11 (Source: P.A. 98-92, eff. 7-16-13; 99-450, eff. 8-24-15.)

12 (40 ILCS 5/15-168.2)

13 Sec. 15-168.2. Audit of employers.

14 (a) Beginning August 1, 2013, the System may audit the  
15 employment records and payroll records of all employers. When  
16 the System audits an employer, it shall specify the exact  
17 information it requires, which may include but need not be  
18 limited to the names, titles, and earnings history of every  
19 individual receiving compensation from the employer. If an  
20 employer is audited by the System, then the employer must  
21 provide to the System all necessary documents and records  
22 within 60 calendar days after receiving notification from the  
23 System. When the System audits an employer, it shall send  
24 related correspondence by certified mail.

25 (b) When the System submits a request for information under

1 subsection (a) of this Section, the employer shall respond  
2 within 60 calendar days of the System's request. Beginning on  
3 the 61st calendar day after the System's request, the System  
4 may assess a penalty of \$500 per calendar day until receipt of  
5 the information by the System, with a maximum penalty of  
6 \$50,000. All payments must be received by the System within one  
7 calendar year after receipt of the information by the System or  
8 one calendar year after reaching the maximum penalty of  
9 \$50,000, whichever occurs earlier. If the employer fails to  
10 make complete payment within the applicable timeframe, then the  
11 System may, after giving notice to the employer, certify the  
12 delinquent amount to the State Comptroller, and the Comptroller  
13 shall thereupon deduct the certified delinquent amount from  
14 State funds payable to the employer and pay them instead to the  
15 System.

16 (Source: P.A. 97-968, eff. 8-16-12.)